

MADISON COUNTY PLANNING

P.O. Box 278 • Virginia City, Montana 59755 • Phone (406) 843-5250 • Fax (406) 843-5229

Streamside Protection Steering Committee

Meeting Summary

Tuesday May 6, 2008

First Madison Valley Bank, Basement Meeting Room, Ennis, MT

Attendance:

Planning Staff: Charity Fechter (planning director), Jim Jarvis (staff planner)

Steering Committee: Bill Mercer, Kelly Galloup, Richard Lessner, Donna Jones, Gayle Schabarker, Pat Clancy, Chris Murphy, Amy Robinson

Absent: Jeff Laszlo

Audience (54):

Sam Johnson	Larry O'Brien	Elizabeth Allen
John East	Darci Sgrignoli	Donna and Virgil Lindsey
Duane Thexton	Kim Miller	Pat Eller
John Theide	Bill Beam	Dave Bricker
Gary and Cathy Forney	Greg Gres	Sam Korsmoe
Bob Miller	Shirley and Aidie Fisher	Nick Gevock
Bill Bieber	Edgar and Bernie Fischer	Vern Norse
Jim Cope	Dale Davis	Glenna Roessler
T. Bachmann	Gary Housman	Jim Ellerton
Toni Bowen	Chris Kountz	Janice Carmody
Pat Goggins	David Wayne	Hal Pasley
Bud and Judy Angle	Jerry Green	Barbara Hoag
Dick Vanderheaden	George Byrum	Dave Magistrild
Larry and Ruby Gleason	Kristy Saier	Jerry and David Wing
Peggy Jasmann	Dok Arvanites	Jaime MacNaughton.
Bob O'Brien	Larry Love	

1. Greetings and welcome - Charity Fechter, County Planning Director

The meeting was called to order at 6:30 p.m. by Charity Fechter.

2. Introductions

Those in attendance introduced themselves, beginning with the steering committee. The audience included people from the S. Boulder, Jefferson and Madison Rivers.

3. Receive April 8, 2008 meeting summary

C. Fechter presented a summary of the discussion from the April 8, 2008, meeting and directed the audience to the county website for additional information.

A summary of recently received written public correspondence was handed out to the steering committee with copies of the 7 letters received.

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4. On-going review and discussion of questions relating to ordinance

Charity Fechter reviewed committee comments from the last meeting on questions 1-6. The draft language staff prepared to address the Committee's area of general agreement was described.

a. Terms "non-conforming" and "grandfathering"

Donna Jones stressed the importance of using lender-friendly language and avoiding use of non-conforming and grandfathering. Chris Murphy and Kelly Galloup asked that all language relating to non-conforming (NC) and grandfathering (GF) be completely stricken from the ordinance. R. Lessner suggested the amended language for NC/GF be carefully reviewed prior to being stricken. C. Fechter read the proposed amendment changes to the NC/GF language. Donna Jones reiterated that NC/GF cannot be used without causing significant financing and insurance problems for property owners. Kelly Galloup inquired about the tax ramifications of decreased property values resulting from the ordinance.

Information from e-mails received by a few of the Committee members was brought up. Duane Thexton commented that he had sent "incomplete" information to some of the Committee, and would forward that to the staff when it was complete. C. Murphy and D. Jones read definitions of NC from various real estate guides, and Donna Jones reported that NC issues could cloud a title. C. Fechter suggested changing the NC/GF sections to read as "automatic variance". A member of the audience suggested language used in state building codes to recognize pre-existing buildings could be used. John East echoed the importance of removing the NC/GF verbiage from the ordinance due to financing complications. D. Vanderheaden, a member of the audience, professionally experienced in the financing of property, also "guaranteed" there would be problems with NC/GF language clouding a property's title.

The Committee agreed that the term "non-conforming" be removed from the proposed ordinance.

b. Discussion on proposed language changes addressing general areas of agreement from the April 8, 2008, meeting.

- i. Existing building should be allowed to rebuild in the same place, if destroyed or razed.
- ii. Do not allow rebuilding, if the original structure is significantly destroyed by flooding.
- iii. Some level of expansion of existing buildings should be allowed.

In response to the committee, C. Fechter stated, the way that pre-existing structures are viewed by the ordinance needs to be clear to avoid future misunderstandings or interpretations contrary to the intent of the regulation.

C. Murphy suggested that "existing structures are permissible in perpetuity" be included in the text of the ordinance. Beyond allowing the existing building to remain, C. Fechter asked for thoughts on how to address expansion or rebuilding of existing structures.

George Byrum cautioned the committee to be aware of flooding and floodplain development, especially on the Jefferson River. He had submitted photos and a video of flooding on the Jefferson. Duane Thexton suggested the size of the floodplain on the Madison and its tributaries is rather small. R. Lessner proposed that other circumstances besides the ordinance, i.e. flood insurance, will control rebuilding on the floodplain.

C. Fechter asked the committee's consensus on whether all hazards associated with pre-existing structures should be treated the same, i.e. flood damaged structures will be treated the same as all other hazards and allowed to rebuild.

The Committee agreed that pre-existing structures damaged by flood should be treated the same as structures damaged in other ways.

C. Fechter asked for input on size restrictions for existing buildings. How much should an existing building be allowed to expand? Is an additional 1000 sq ft or 50% of the original sq footage adequate? The committee was undecided on what, if any, size restriction on expansions should be allowed. K. Galloup had difficulty setting a limit on how big someone can build their house. A. Robinson concurred. R. Lessner offered that abundant science exists that supports the benefits of setback regulations, especially protection of riparian habitat. B. Mercer proposed that other uses/users can impact water quality more than streamside buildings.

A member of the audience, familiar with the University of Indiana Geology School on the S. Boulder River, inquired how existing trailers would be treated under this proposed ordinance. The School has plans to replace several existing trailers with new dormitory buildings. Would these new buildings be allowed to rebuild in the same area as the trailers? C. Fechter responded that a trailer on an "established" foundation would be a pre-existing building according to the proposed amendments. This site was further complicated by other streams in the area of the trailers that would make relocation difficult. The river was close to the existing trailers, but down a significant grade. In circumstances such as this C. Fechter indicated that some form of variance review would be necessary that looked at the particulars of the property and identified the best possible building site.

C. Fechter brought the discussion back to what size restriction should be imposed. An audience member suggested 6000 sq ft under roof as a possible maximum. P. Clancey suggested the building should be allowed to expand to any size away from the streams, so long as there was no further encroachment. B. Mercer suggested that the size issue is more of a viewshed issue, not water quality. R. Lessner proposed that other impacts, such as roads, loss of vegetation through land clearing and so on are more important than building size. D. Jones expressed concern about telling a property owner they couldn't remove vegetation to build a path, for example. R. Lessner suggested that reasonable restrictions to protect a publicly owned resource such as a river from harm are appropriate. He pointed out that rivers in Montana belong to the public, and it is important that a resource that belongs to all of us is as worthy of protection as private property.

P. Clancey repeated his earlier proposal to allow a building to expand, if it can be done without further encroachment on the stream.

The Committee agreed that a building could be expanded, provided that expansion did not encroach any further into the setback area.

c. Questionnaire Item #6 – How should setbacks on lots too narrow to accommodate the setbacks be treated?

K. Galloup asked how many lots are potentially impacted. J. Jarvis responded potentially thousands of stream frontage lots throughout the east county area are impacted. C. Fechter made the point that concern was raised about the variance process, and asked the committee for ways to avoid the variance process, yet still provide some level of protection for the stream. D. Jones suggested it is unfair to treat one property owner differently than his/her neighbor just because they were building later and that she couldn't pick a number that would be fair. C. Fechter replied that

based on feedback received from the general public and shared with the committee, while there may be dispute as to size of the setback, she was not aware of anyone who said “no setback”. In telephone discussions with these same people, they indicated that a reasonable setback would be appropriate for new buildings. There was not agreement on the setback distance, and they did not think they should apply to rebuilding. They were not opposed to setbacks as long as the lot was still useable.

J. Jarvis suggested a setback on narrow lots based on the greater of the following, 50% of the maximum lot depth, or 100 feet. K. Galloup suggested a 100 feet setback may not allow enough room to build. J. Jarvis suggested a precedent-based approach where established trends for a neighborhood or area will serve as a setback guide for new in-fill development.

If flooding is the issue an audience member suggested that the developer/builder must have a flood survey prepared for the property to establish the high water mark and flood prone areas.

The Committee agreed that existing structures (precedent) should be considered for establishing setbacks on narrow lots. Where precedents do not exist, another method would have to be used.

C. Fechter summarized the committee’s major points of agreement:

1. The term “non-conforming” use is to be removed;
2. an existing building can be rebuilt at its current location and it can be expanded, provided the expansion is no closer to stream;
3. there is no distinction on rebuilding whether damage or destruction is caused by flood or other means (fire, earthquake, meteorite impacts, etc.).
4. use existing structure locations to determine the setback on narrow lots (“precedent”) and consider other methods where precedents cannot be use.

5. Schedule next meeting and set agenda

The items to be addressed at the next meeting were discussed, as follows:

- a. Staff will prepare language to reflect agreed upon items for review at the next meeting.
- b. Staff will research other methods for establishing setbacks for narrow lots, such as averaging, and the types of rivers where each method is applied.
- c. Pat Eller, with Morrisison-Maierle Engineering offered to present information on Best Management Practices (BMPs) that are typically used to minimize impacts to streams. He felt that a 5-10 minute presentation at the beginning of the meeting would be adequate. The committee asked that this presentation be included.
- d. Discuss Question #8: Should setbacks apply to more than just buildings (roads, excavation, grading, landscaping)?
- e. Discuss Question #9: Should protection go beyond setbacks?
 - i. Maintain existing, native streamside vegetation from removal?
 - ii. Restricted building in floodplain areas?

A member of the audience asked that the committee consider that different streams have different hazards and impairments.

The next committee meeting is scheduled for Tuesday, June 10, 2008 at 6:30 p.m. in Ennis.

6. Adjournment

Meeting adjourned: 8:35 p.m.